

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY
AUTHORITY, PUNE**

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 121 OF 2024**

MahaRERA on its own Motion

.... Complainant

Versus

Sukhwani Chawla Developers

.. Respondent-Promoter

Project – Sukhwani Skylines

Maharera Real Estate Project Registration No. P52100021183

Coram: Shri.F.D.Jadhav, Dy.Secretary-Cum-Head

Appearance :- Absent

ORDER

4th October, 2024

(Through Video Conferencing)

1. The Advertising Standards Council of India (ASCI) has issued an intimation letter, dated 14.06.2024 to the respondent and thereby informed that the advertisement published by the respondent on website in respect of a real estate project under the name "Sukhwani Skylines" does not contain MahaRERA website address and QR Code and the same is considered to be prima facie in contravention of Real Estate (Regulation & Development) Act, 2016. ASCI has further directed the respondent to ensure that the said advertisement has been modified or withdrawn no later than June 26, 2024.
2. Since the respondent has not complied with the directions issued by the ASCI vide intimation letter, dated 14.06.2024, the ASCI has sent mail, dated 17.06.2024 and referred the matter to MahaRERA, Pune for initiating the suo-motu complaint/proceeding against the respondent for disposal according to law.

3. On the basis of mail dated 17.06.2024 sent by ASCI and on perusal of the impugned advertisement, it has been transpired that the impugned advertisement though contains RERA Registration number, it does not contain the Maharera website address and as such there is violation of Section 11(2) of the Act, 2016. Perusal of the impugned order further transpires that the QR Code has not been displayed in it. Therefore, it prima-facie discloses contravention of the MahaRERA Order No.46/2023, dated 29.05.2023 and MahaRERA Order No.46A/2023, dated 25.07.2023 on the part of the respondent-promoter. In these set of facts, a notice of hearing has been sent to the respondent on 06.08.2024 for attending the virtual hearing, dated 16.08.2024 at 11.30 a.m. and respondent-promoter was called upon to furnish his reply.
4. In spite of service of notice, Respondent-promoter has failed to appear before this Authority for virtual hearing fixed on 16.08.2024. Therefore, in order to give sufficient opportunity of being heard, notice was re-issued to the respondent and matter was adjourned time to time on 27.08.2024 and 13.09.2024. However, the respondent failed to appear and defend the matter. Therefore, the exparte order is being passed in the matter.
5. The charges are leveled against the respondent-promoter for not mentioning the Maharera website address in the impugned advertisement and thereby violating provision of Section 11(2) of the Act, 2016 and for not displaying the QR Code in the impugned advertisement and thereby contravening the directions issued in MahaRERA Order No.46/2023, dated 29.05.2023 and MahaRERA Order No.46A/2023, dated 25.07.2023.
6. So far as QR Code is concerned, it can be said MahaRERA Order No.46/2023 and 46A/2023 are utmost important for deciding whether there is violation of the QR Code on the part of the respondent or not. MahaRERA vide Order No. 46/2023, dated

29.05.2023, has issued following directions to the promoters in regard to QR Code.

- The promoter shall prominently display QR Code on each and every real estate project promotion/advertisement published after "1st August, 2023".
- The QR Code must be published in a manner that is legible, readable, and detectable with software application.
- The QR Code must be published besides the MahaRERA Registration Number and the Website address.

The mediums of the promotion/advertisement have also been described in the said Order.

7. The purpose and object for issuing directions by the MahaRERA Authority by MahaRERA Order No. 46/2023 is to bring greater transparency through disclosure of information on regular basis for public viewing, through online portal ensuring that maximum required information is available for public viewing in the most feasible manner, thereby empowering homebuyers/allottees to make informed choice/decisions in the ever-changing real estate market. Considering the aforesaid directions and the non-rebuttal by the respondent-promoter in respect of said charge, it can be said contravention of said directions under Order No. 46/2023 appears to have been proved that the impugned advertisement does not contain QR Code.

8. Perusal of the impugned advertisement on record it can be seen that QR Code is not displayed in the impugned advertisement. It certainly proves the violation of MahaRERA Order No. 46/2023 and Order No. 46A/2023 on the part of the respondent. Consequently this promoter is liable for violation of mandatory provision of QR Code.

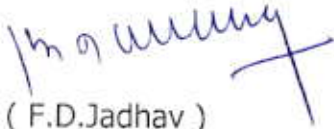
9. The further charge against the respondent is that the impugned advertisement doesn't contain MahaRERA website address as required under the provision of Act, 2016 and thereby it violated the provision of Section 11(2) of the RERA Act, 2016. Section 11(2) of the Act, 2016 reads as under :-

"Section 11(2) :- The advertisement or prospectus issued or published by the promoter shall mention prominently the website address of the Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters incidental thereto."

10. On careful perusal of the Section 11(2) manifestly shows it is imperative on the part of the promoter to mention the RERA Registration number of the project as well as MahaRERA website address prominently in the advertisement issued by him. Perused the impugned advertisement. It does not contain MahaRERA website address, though required under the provision of Section 11(2) of the Act, 2016. Therefore, it has been explicitly proves that the respondent has violated the provision of Section 11(2) of the RERA Act, 2016 by publishing the impugned advertisement of his real estate project without containing the MahaRERA website address. As such provision of Section 61 of the Act, 2016 is required to be invoked in the present matter.
11. Considering the facts *vis-a-vis* law discussed hereinabove, it can be said that it has been proved beyond reasonable doubt that the promoter has contravened the directions issued under MahaRERA Order No.46/2023 and 46A/2023 as well as provision of Section 11(2) of the RERA Act, 2016, as stated hereinabove. Therefore,

penalty will have to be imposed for contravention of the aforesaid directions as well as violation of the statutory provision of the Act, 2016.

12. Penalty of Rs. 25,000/- under Section 63 of the Act, 2016 has been imposed against the respondent-promoter for contravention of the directions issued by the MahaRERA Authority by Order No.46/2023, dated 29.05.2023 read with Order No.46A/2023, dated 25.07.2023.
13. Further Penalty of Rs. 25,000/- under Section 61 of the Act, 2016 has been imposed against the respondent-promoter for violation of Section 11(2) of the RERA Act, 2016.
14. Both the aforesaid penalties shall be payable by the respondent within 15 days from the date of this order.
15. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications by promoter for extension, corrections, change of name etc., with respect to the said project.


(F.D.Jadhav)
Dy.Secretary-Cum-Head,
MahaRERA, Pune

